

Department of Justice

2806.303-2

**PART 2806—COMPETITION
REQUIREMENTS**

**Subpart 2806.3—Other Than Full and Open
Competition**

Sec.

2806.302 Circumstances permitting other
than full and open competition.

2806.302-7 Public interest.

2806.302-70 Determination and findings.

2806.303 Justifications.

2806.303-1 Requirements.

2806.303-2 Content.

2806.304 Approval of the justification.

Subpart 2806.5—Competition Advocates

2806.501 Requirement.

2806.502 Duties and responsibilities.

AUTHORITY: 28 U.S.C. 510; 40 U.S.C. 486(c); 28
CFR 0.75(j) and 28 CFR 0.76(j).

SOURCE: 63 FR 16124, Apr. 2, 1998, unless
otherwise noted.

**Subpart 2806.3—Other Than Full
and Open Competition**

**2806.302 Circumstances permitting
other than full and open competi-
tion.**

2806.302-7 Public interest.

**2806.302-70 Determination and find-
ings.**

(a) *Procedure.* The determination and findings (D&F) required by FAR 6.302.7(c)(1) shall be prepared in the format provided in paragraph (b) of this subsection. The original D&F and documentation supporting the use of this exception to the requirement for full and open competition shall be submitted to PPRG, JMD, for concurrence and coordination to the Attorney General for signature.

(b) *Format.* The following format shall be used for the D&F:

DEPARTMENT OF JUSTICE

WASHINGTON, DC 20530

DETERMINATION AND FINDINGS

Authority To Use Other Than Full and Open
Competition:

Upon the basis of the following findings and determination, which I hereby make pursuant to the authority of 41 U.S.C. 253(c)(7), as implemented by FAR 6.302-7, it is in the public interest to provide for other

than full and open competition in the contract action described below.

Findings:

1. The (1) proposes to enter into a contract for the acquisition of (2).

2. Use of the authority cited above is necessary and in the public interest for the following reasons: (3)

Determination

For the reasons described above, it is necessary and in the public interest to use other than full and open competition in the proposed acquisition.

Signature _____

Date _____

Notes:

(1) Name of contracting activity.

(2) Brief description of supplies or services.

(3) Explain the need for use of the authority.

2806.303 Justifications.

2806.303-1 Requirements.

Pursuant to FAR 6.303-1(d), a copy of the justification shall be forwarded through the Department's Competition Advocate to the Department's point of contact with the Office of the United States Trade Representative.

2806.303-2 Content.

In addition to the information required by FAR 6.303-2, justifications requiring the approval of the PE shall contain the following documents:

(a) A written Acquisition Plan as required by FAR 7.102 and part 2807 of this chapter. If a plan was not prepared, explain why planning was not feasible or accomplished.

(b) A copy of the CBD announcement or proposed announcement in accordance with the requirements of FAR 5.203.

(c) As part of the description of the supplies or services required in FAR 6.303-2, the justification shall include the statement of need as submitted by the requiring activity and any subsequent changes or revisions to the specifications.

(d) Any additional documentation that may be unique to the proposed procurement and is relevant to the justification.

2806.304 Approval of the justification.

(a) All justifications for contract actions over the contracting officer's approval dollar threshold shall be submitted to the BPC for concurrence before being forwarded to the contracting activity competition advocate for approval. Justifications requiring approval by the PE shall be further submitted for the concurrence of the contracting activity competition advocate and the HCA, or designee, before being forwarded to the PE for approval.

(b) After approval by the PE, the signed original will be returned to the contracting activity and one copy will be retained by the PPRG, JMD.

(c) Pursuant to FAR 6.304(c), a class justification for other than full and open competition shall be approved in accordance with bureau procedures.

Subpart 2806.5—Competition Advocates

2806.501 Requirement.

In accordance with FAR 6.501:

(a) The Assistant Director, Procurement Policy and Review Group, Management and Planning Staff, Justice Management Division, has been designated as the Competition Advocate for the Department of Justice.

(b) The agency head will appoint, in each bureau, an official to be the contracting activity competition advocate. The contracting activity competition advocates shall be vested with the overall responsibility for competition activities within their contracting activity. No individual in the contracting office at or below the level of chief of the contracting office may serve as the contracting activity competition advocate. An individual at any level above the BPC may serve as contracting activity competition advocate.

2806.502 Duties and responsibilities.

In addition to the duties and responsibilities set forth in FAR 6.502(b) and elsewhere in this chapter, contracting activity competition advocates shall:

(a) Actively enforce the Department's Competition Advocacy Program within the contracting activity and ensure that systems are established for

the effective internal control of contracting activity functions and activities which implement the Department's Competition Advocacy Program.

(b) Implement specific goals and objectives to enhance competition and the acquisition of commercial items.

(c) Prepare and submit to the DOJ Competition Advocate, by November 30 of each year, an annual report of competition advocacy activities conducted during the prior fiscal year.

PART 2807—ACQUISITION PLANNING

Subpart 2807.1—Acquisition Plans

Sec.

2807.102 Policy.

2807.102–70 Applicability.

2807.103 Agency-head responsibilities.

2807.103–70 Other officials' responsibilities.

2807.105 Contents of written acquisition plans.

Subpart 2807.5—Inherently Governmental Functions

2807.503 Policy.

AUTHORITY: 28 U.S.C. 510; 40 U.S.C. 486(c); 28 CFR 0.75(j) and 28 CFR 0.76(j).

SOURCE: 63 FR 16124, Apr. 2, 1998, unless otherwise noted.

Subpart 2807.1—Acquisition Plans**2807.102 Policy.**

(a)(1) In accordance with FAR 7.1, DOJ contracting activities shall perform acquisition planning and conduct market research for all acquisitions in order to promote and provide for:

(i) Full and open competition (see FAR part 6);

(ii) Maximum practicable competition for those acquisitions where full and open competition is not required by FAR part 6; and

(iii) The acquisition of commercial items or, when commercial items are not available, nondevelopmental items to the maximum extent practicable.

(2) The degree of planning and market research may vary, depending on such factors as the acquisition's size, scope and complexity.